

Summaries of Selected Enforcement Actions

In the Matter of Goldman, Sachs & Co., Steven Kaseta, and Edward M. Murphy (June 19, 1997)sp; (January 22, 1997)

Goldman, Sachs & Co. was fined \$3,500 for providing illegal gratuities to former deputy treasurer Steven Kaseta and former Massachusetts Health and Education Facilities Authority executive director Edward M. Murphy. Kaseta was fined \$1,500 and the Commission issued a Public Enforcement Letter to Murphy. In a Disposition Agreement, Goldman Sachs admitted that it violated G.L. c. 268A, §3(a) in March 1992 when Goldman Sachs Vice President Daniel J. McCarthy provided Kaseta with two theater tickets to "Man of La Mancha" and provided dinner for Kaseta and a guest at Locke-Ober Restaurant. In December 1992, McCarthy provided Kaseta with drinks and dinner in New York City. In addition, Goldman Sachs Vice President Larry Kohn provided Kaseta with theater tickets for shows in New York City on two occasions between December 1991 and June 1992. The total cost of the dinners and tickets was approximately \$500. Goldman Sachs also admitted to providing to Murphy, through Goldman Sachs Vice President Benjamin Wolfe, dinner at Cafe Budapest in Boston in 1990, dinner and theater tickets to "Phantom of the Opera" in New York City in 1992 and dinner in Phoenix, Arizona in 1993. The total cost of the dinners and tickets was approximately \$630. Section 3(a) of the conflict of interest law prohibits anyone from directly or indirectly giving to a public employee anything of substantial value which is given for or because of an official act performed or to be performed by the public employee. Gratuities worth \$50 or more are considered to be "of substantial value" for purposes of the conflict law. Kaseta, who as deputy treasurer was a member of the selection committee which recommended awarding a contract managing state pension funds to Goldman Sachs and also monitored the contract once it was awarded, admitted in a separate Disposition Agreement that he violated G.L. c. 268A, §3(b) by accepting the above free meals and tickets. Section 3(b) of the conflict law prohibits public employees from accepting anything of substantial value which is given to them "for or because of any official act ... performed or to be performed" by them.

Finally, a Public Enforcement Letter cited Murphy for accepting the above free meals and tickets in violation of G.L. c. 268A, §§3(b) and 23(b)(3). Section 23(b)(3) generally prohibits public employees from acting in a manner which would cause a reasonable person to conclude that anyone can improperly influence or unduly enjoy their favor in the performance of their official duties. According to the letter, as executive director of HEFA, an independent state authority which provides capital financing to higher education institutions and health facilities through issuing tax exempt bonds, Murphy had official responsibility for all of HEFA's actions including assigning staff to work with borrowing institutions to develop proposals and to present such proposals to the HEFA board of directors, participating in pricing bonds and participating in decisions to choose which firm would be selected as HEFA's short-term investment and pool managers. Goldman Sachs was the lead underwriter for approximately 25 percent of the \$6.4 billion in bonds issued by HEFA between 1989 and 1995 and earned commissions of at least several million dollars on these bonds. The Commission cited as the major reasons for resolving Murphy's conduct with a Public Enforcement Letter the quasi-private business nature of HEFA's activities, the friendship which developed

between Murphy and Wolfe, and Murphy's reciprocation for some of the gratuities received by paying for certain dinners and events. Issuance of a Public Enforcement Letter does not require the subject to pay a fine or admit to violating the law, but the subject must waive his right to a hearing on the matter and consent to publication of the Public Enforcement Letter.